

# Customs & Trade in Israel

## A Legal Newsletter

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### **The Rehovot Magistrate Court: The Tax Authority will Pay the Trial Expenses of an Importer Who Won a Classification Lawsuit**

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#### **Background:**

In the following article we will review the Rehovot Magistrate Court's ruling regarding a request for reimbursement of the trial expenses of an importer. The importer sought the reimbursement of its expenses before and during the classification appeal proceedings from the Tax Authority.

#### **Case Facts & Parties' Arguments:**

A importer of driving systems (which also markets and installs the systems) imported two types of wheelchair lift installations from different suppliers. The installations' classification was exempt from duties for an extended period of time, until the Tax Authority decided to change their classification and impose duties on their import. As part of the classification change, the importer was sent a retroactive debt notice amounting to 27,000 ILS for 5 years of importing the installations according to the previous, exempt from duties classification.

The importer sought a restitution of the exempt from duties classification for both installations, but the Tax Authority accepted its arguments only regarding one of the installations, upholding the deficit notice for the second installation.

After a series of meetings between the importer and senior officials in the Tax Authority, the importer's request to reconsider the classification of the second installation was denied, citing as the reason the fact that the second installation's operation is similar in essence to the operation of other dutiable products. Following the filing of a lawsuit, the Tax Authority reexamined the second installation and backtracked from its position that it is dutiable.

The importer argued that the Tax Authority should cover the expenses it incurred due to the meetings, requests and appeals to the Tax Authority prior to filing the lawsuit, as well as legal expenses. The importer claimed that the lengthy dispute lasted over three years, requiring the investment of considerable resources towards proving its arguments, an expenditure and process which could have been avoided, as is evident by the fact that the Tax Authority backtracked on its decision.

Conversely, the Tax Authority argued that it should not be liable for costs, as not even one hearing was held in the case and it is in its preliminary stages. The Tax Authority claimed that the importer

failed to present evidence regarding its expenses, which don't even reach 20,000 ILS. Therefore, the Tax Authority argued, the lawsuit should be dismissed with no ruling of costs.

### **The Court's Ruling:**

The court reaffirmed the rule that a claimant who wins his claim is entitled to a costs and legal expenses ruling. The court may apply its discretion in the matter, considering the context of the lawsuit and the way it was managed by the parties involved.

The court therefore examined whether the circumstances justify an expenses ruling in favor of the importer. In light of the fact that the lawsuit relates to the classification of a product and is not a regular monetary claim, the Tax Authority early agreement to change the classification presented in its Statement of Defense, and the length of the dispute between the parties prior to the filing of the claim, the court found that the importer was justified in its request for an expenses ruling in its favor. The court noted that it was expected of the Tax Authority to do its best to expedite the handling of the importer's classification applications, as it is clear that the filing of the lawsuit hastened the finding of a solution.

The court charged the Tax Authority with the entire sum of the deficit notice, with interest and linkage differentials. In addition, under the circumstances and in light of the Tax Authority's agreement to change the classification according to the importer's position, the court charged the Tax Authority with 4,000 ILS to cover the importer's expenses in meetings, requests and applications prior to the filing of the lawsuit.

Regarding legal expenses, the court ruled that according to the minimal fees recommended by the Israeli Bar Association, the legal expenses are set at 8,000 ILS.

In summary, the court accepted the importer's position that it incurred significant expenses prior to filing the lawsuit in an attempt to exhaust all possible options with the Tax Authority, and ruled that the Tax Authority must pay for its expenses throughout the entire duration of the dispute.

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**The above review is a summary. The information presented is for informative purposes only, and does not constitute legal advice.**

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